

ORIGINAL

FILED

JUL 22 PM 1:38

1 Edward Kennedy D#30780
CTF-Soledad
2 P.O.Box 689 /F-304
Soledad, CA 93960
3 PRO SE. Petitioner
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5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF
8 CALIFORNIA SAN FRANCISCO DIVISION
9

10 Edward Kennedy

11 Petitioner,

12 vs.

13 Ben Curry

14 Respondent,
15
16
17
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C 08 - 1090 JSW

Petitioner's notice of
Motion, and Motion in opposition
to Respondent's notice of Motion
and Motion to Dismiss;
Supporting Memorandum of Points
and Authorities.

District Judge:
The Honorable J.S. White

19 Please take notice that petitioner Edward Kennedy, petitioner in PRO
20 SE. moves this Court to **DENY** respondent's Motion to Dismiss petitioner's
21 Habeas Petition on the grounds that petitioner has followed the rules of
22 this Court in filing his PRO SE petition, and that petitioner has exhausted
23 his State Court remedies, that he has stated sufficient facts which if true
24 would entitle him to relief, and that his Habeas Petition issued by this
25 Court must be read "generously".
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MEMORANDUM OF POINTS AND AUTHORITIES
INTRODUCTION

Petitioner Kennedy, is a Californis State Prisoner being unlawfully held at the Correctional Training Facility - Soledad proceeding PRO SE in the above entitled action. In his Habeas Corpus petition, petitioner alleges numerous violations of his constitutional rights under the 5th and 14th amendments to the United States Constitution. Specially, as was exhausted in the California Supreme Court. Petitioner allege he was denied Federal due process of law and his protected liberty interests, insufficiency of the evidence claims a right to have the charges made by the board to be submitted to a judge or a jury. Biasness, equal protection of the law, and the vagueness challenges. See the Petition to the Supreme Court, the

petitioner stated the "operative facts" of his claims and in fact cited case law in support of those facts both in the Petition for Review in the California Supreme Court and in this Court. Petitioner provides to this Court for purposes of showing the court that petitioner has indeed properly exhausted his State Court remedies, and also provides a copy of his parole hearing transcripts which is also being sent to respondent's along with the along with the California Supreme Court's denial of the Petition for Review. Accordingly the respondents must comply with this courts order as directed in its Order to Show Cause, dated May 7th,2008.

Argument**I**

Petitioner alleged facts which if true would entitle him to relief as is clear from the court's issuance of an Order to Show Cause which is well within the court's jurisdiction.

Respondent alleges that petitioner's claims are couched in conclusory allegations without "sufficient plea" facts (see resp. Not. Motion & Motion to Dismiss and Mem. of points & authorities, pg's 1-4) and thereby suggests that this Court has no jurisdiction to issue an order to show cause on claims that on their face clearly appear to have merit. Respondents would like for this court to dispose of petitioner's liberty interest, his due process rights, and other clearly established rights just because he is not versed in pleading Federal Habeas Corpus Petitions. petitioner submits that all that is required is that he legibly state facts which if true would entitle him to relief. None of the cases cited by respondents hold that a PRO Se petitioner has to present all of the facts on a habeas corpus form petition.

In this court order, obviously bore in mind, as is required by U.S. Supreme Court authority and as Ninth Circuit precedent demands that "petitions must be read in context and understand based on the particular words used," **Peterson v. Lambert**, 319 F.3d 1153, 1159 (9th Cir. 2003) (en banc), and that "Pro Se [habeas] petitions are held to a more lenient standard than counsel petitions." **Sanders v. Ryder**, 342 F.3d 991, 999 (9th Cir. 2003) cited in **Davis v. Silva**, 2008 DJDAR 33 at 34 order issued January 2nd, 2008 (9th Cir.) when it issued the order to show cause.

Respondent's are obviously confusing subject matter jurisdiction of the court with a failure to state a cognizable or colorable claim which this court has clearly rejected by issuing its order requiring the respondents to answer. Clearly this court has subject matter jurisdiction over petitioner's habeas corpus claims pursuant to 28 U.S.C. § 2254, federal question jurisdiction exist if the complaint (or petition) purports to state a claim under federal law regardless of the validity of the claim. **Wheeldin v. Wheeler**, 373 U.S. 647, 83 S.Ct. 1414, 144 10 L.Ed.2d 605 (1963). Only if the stated claim is so wholly insubstantial that even a preliminary review of the merits is not required does the federal court not have jurisdiction, **Bell v. Hood**, 327 U.S. 678, 66 S.Ct. 773, 90 L.Ed 939 (1946). It is not a very arguably failed claim that derives the District Court of jurisdiction. Here, petitioner properly invoked §2254 when he used the habeas corpus form issued by this court. (see this court's own habeas corpus forms on file with the clerk). Petitioner's contentions that he was denied due process and other federal constitutional rights in the parole context are not so insubstantial so as to derive this court of jurisdiction to issue an order to show cause on the merits from the face of the claims of the Pro Se petition from wherein petitioner stated the "operative facts" of his claims. Had petitioner not pleaded sufficient facts for the court to issue an order to show cause, this court would not have done so.

Petitioner does not have to meet any burden of proof to respondents at this point. But rather to this court. Respondents claim that petitioner provided no documents or evidence. However, as will be seen below, there is no requirement that he present documentary evidence in order to state a colorable claim on the habeas corpus form that petitioner used from this court. Therefore, the petition should be granted, and the order to show

1 cause must stand.

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7 II

8 Petitioner has exhausted his state court remedies. The state must
9 answer the show cause order because petitioner provided the court
10 with the operative facts of his claims.

11 The board is always suppose to articulate why the petitioner would be
12 a current unreasonable safety risk if released from prison, § 3041 (A)(B) of
13 the Penal Code, § 2402 (1)(c). Petitioner submits that he bear his burden of
14 proof to this court, and not to respondents. It is up to this court to
15 decide whether or not the petition states a prima facie case and whether or
16 not the petition appears on its face to have merit. Petitioner, to further
17 prove that he has in fact "exhausted" his state court remedies has attached
18 to this opposition motion his petition for review which includes the State
19 Appellate Court, and further, petitioner exhaustion does not require a
20 "habeas petitioner... present to the state court every piece of evidence and
21 wording supporting his federal claims in order to satisfy the exhaustion
22 requirement." **Chacon v. Wood**, 36 F.3d 1459, 1469 n.9 (9th Cir. 1994). see
23 **Davis**, supra, at pg.34.

24
25 Petitioner in fact had exhausted his state court remedies as well as
26 his federal claims in state court by indicating "the federal law basis for
27 his claims by citing in conjunction with the claims the federal source of
28 law which he relies, or a case deciding such a claim on federal grounds, or

1 simply labeling the claim 'federal'" **Davis**, supra, at pg's. 33 & 34 citing
2 **Baldwin v. Reese**, 541 U.S. 27, 32 (2004) ; see also **Insyxiengmy v. Morgan**,
3 403 F.3d 657, 668 (9th Cir.2005) (stating that the petitioner makes the
4 federal basis of his claim **explicit** by either specifying particular
5 provisions of the constitution or statutes, or by citing to federal law).
6 Therefore, petitioner presented to this court as well as the highest state
7 court with all "the facts necessary to state a claim for relief" **Davis**,
8 supra, Id at 34, citing **Gary v. Netherland**, 581 U.S. 152, 162-163 (1996). In
9 **Picard v. Conner**, 404 U.S. 270, 275, The Supreme Court has held that the
10 exhaustion requirement is not satisfied unless the federal claim has been
11 "fairly presented" to the state courts. Here, petitioner has done so (see
12 petition for review and cases therein).

13
14 The board's decision to deny parole was not supported by "some
15 evidence" having an indicia of **reliability**. In **Biggs v. Terhune**, 334 F.3d
16 at 914, a case with situational factors and a prison performance record
17 favoring to petitioner's, the court held that "[b]ecause the California
18 parole scheme [Penal Code § 3041 (b)] vests in every inmate a constitutional
19 protected liberty interest" "protected by the procedural safe guards of the
20 due process clause, some evidence" having an indicia of reliability, must
21 underlie every board decision. The **Biggs'** court then proceeded to
22 establish standards for the California Parole Board to follow when accessing
23 the facts before it during a parole consideration hearing held at 916, 917.
24 "[While] the [California] parole board's sole supporting reliance on the
25 gravity of [a first degree murder] offense [involving the killing of a
26 witness] and conduct prior to imprisonment to justify denial of parole can
27 initially be justified as fulfilling the requirements set forth by state law
28 [o]ver time. However, should [a petitioner] continue to demonstrate

1 exemplary behavior and evidence of rehabilitation. Denying him parole simply
2 because of the nature of [his] offense and prior conduct would raise serious
3 questions involving his liberty interest in parole." Thus, the board always
4 had to articulate why he would be a current unreasonable safety risk if
5 released from prison. That's the "some evidence test."

6
7 The California Supreme Court in it's denial of petitioner's Petition
8 for Review denied the petition without any citation to any case with the
9 following words "The Petition for Review is denied." The California Supreme
10 Court did not cite any case referring to a procedural defect nor did the
11 court make a ruling on the merits of petitioner's federal claims rejecting
12 those claims, therefore the court must use the "look through rule" and
13 analyze the petition under the standard of § 2254 (d). see **Ylst v.**
14 **Nunnemaker**, 501 U.S. 797, 804, 111 S.Ct. 2590, 115 L.Ed.2d 706 (1991).

15
16 In **Harris v. Superior Court**, 500 F.2d 124 (9th Cir. 1974) (en banc),
17 cert. denied 420 U.S. 973, 95 S.Ct. 1354, 43 L.Ed.2d 652 (1975), the Ninth
18 Circuit held : "if the denial of the Habeas Corpus Petition includes a
19 citation of an authority which indicates that the petition was procedurally
20 deficient... then the available state remedies have not been exhausted as
21 the California Supreme Court has not been given the required fair
22 opportunity to correct the constitutional violation." *Id* at 1128. As stated
23 above, The California Supreme Court did not cite to any case denoting a
24 procedural deficiency and its denial of his federal claims requires the
25 court to look through to last reasoned decision that denied the federal
26 claims which was the Los Angeles Supreme Court. However, this must take
27 place after a full briefing of the issues.
28

1 See **Davis v. Silva** cited as 2008 DJDAR 33 (9th Cir. 2008), the
2 exhaustion doctrine as codified by the Antiterrorism and Effective Death
3 Penalty Act of 1996 provides that Habeas relief must be denied if the
4 petitioner has not "exhausted the remedies available in the courts of
5 state." 28 U.S.C. § 2254 (b)(1)(A) ; see also **Muhammad v. Close**, 540 U.S.
6 749, 751 (2004) (per curiam) (federal petitions for habeas corpus may be
7 granted only after avenues of relief have been exhausted.") Exhaustion
8 requires that a petitioner fairly present his federal claims to the highest
9 state court available. **Weaver v. Thompson**, 197 F.3d 359, 365 (9th Cir.
10 1999) ; see **O'Sullivan v. Boerckel**, 526 U.S. 838, 844-845 (1999) (section §
11 2254 (c) requires only that state prisoners give state courts a fair
12 opportunity to act on their claims." (emphasis in original). Fair
13 presentation require that the petitioner "describe in the state proceedings
14 both the operative facts and the federal legal theory on which his claim is
15 based so that the state courts have a fair opportunity to apply controlling
16 legal principles to the facts bearing upon his constitutional claim. **Kelly**
17 **v. Small**, 315 F.3d 1063, 1066 (9th Cir, 2003) overruled on other grounds by
18 **Robbins v. Carey**, 481 F.3d 1143, 1149 (9th Cir. 2007) thus "for purposes of
19 exhausting state remedies, a claim for relief in habeas corpus must
20 include reference to a specific federal constitutional guarantee, as well
21 as a statement of facts that entitle the petitioner to relief." **Gray v.**
22 **Netherland**, 518 U.S. 152, 162-163 (1996).

23
24 Rather to exhaust the factual basis of the claim, the petitioner must
25 only provide the state court with the operative facts, that is all of the
26 facts necessary to give application to the constitutional principle upon
27 which [the petitioner] relies." **Daugharty v. Gladden**, 257 F.2d 750, 758 (9th
28 Cir. 1958) ; see also **Randy Hertz & James S. Liebman**, Federal Habeas

1 Practice and Procedure § 23.3c at 1090 (2005) (same). The respondent's
2 Motion to Dismiss for not exhausting his state court remedies regarding his
3 claim that the board failed to articulate why he would be a current
4 unreasonable safety risk if released from prison. The court **denied**
5 respondents motion to dismiss. See Penal Code § 3041 (A)(B) dealing with
6 unreasonable risk to safety if released from prison. In the exhaustion
7 context, the Supreme Court has admonished lower courts that the complete
8 exhaustion requirement is not intended to "trap the unwary Pro Se
9 prisoner." See **Slack v. Mc Daniel**, 529 U.S. 473, 487 (2000) more generally,
10 the court has held Pro Se pleadings to a less stringent standard than briefs
11 by counsel and reads Pro Se pleading generously", However, inartfully
12 pleaded." See **Haines v. Kerner**, 404 U.S. 519, 520 (1972) (pre curiam).

15 CONCLUSION

16 Respondents counsel is either trying to stall due to a heavy case
17 load, or trying to delay justice in this matter. Petitioner should not have
18 to languish in prison forever because of some perceived mistake by the
19 respondents. Petitioner has stated claims for relief in his Habeas Corpus
20 form petition by including references to specific constitutional
21 guarantees, as well as a statement of the facts that **entitle** him to relief.
22 (**Gray**, supra, 515 U.S. at 162-163). Petitioner has in fact established a
23 prima facie showing as is evident by this court's order to show cause and
24 respondents must comply with this order. Petitioner has no other recourse
25 of law save by Federal Petition for Writ of Habeas Corpus for the foregoing
26 reasons the writ should issue, and respondents Motion to Dismiss be denied.

28 Date July 21ST, 2008

Edward Kennedy

Edward Kennedy

EXHIBIT

A

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2 DANE R. GILLETTE
Chief Assistant Attorney General
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Senior Assistant Attorney General
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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14
15 **EDWARD KENNEDY,**

Petitioner,

16
17 v.

18 **BEN CURRY, Warden,**

Respondent.

C08-1090 JSW

**NOTICE OF MOTION AND
MOTION TO DISMISS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Judge: The Honorable Jeffrey S. White

1 EDMUND G. BROWN JR.
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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14
15 **EDWARD KENNEDY,**

16 Petitioner,

17 v.

18 **BEN CURRY, Warden,**

19 Respondent.

C08-1090 JSW

**NOTICE OF MOTION AND
MOTION TO DISMISS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Judge: The Honorable Jeffrey S. White

20 TO PETITIONER EDWARD KENNEDY, IN PRO SE:

21 PLEASE TAKE NOTICE that Respondent Ben Curry, Warden of the Correctional
22 Training Facility, moves this Court to dismiss the petition for writ of habeas corpus pursuant to
23 28 U.S.C. § 2254 and Rules 2 and 4 of the Federal Rules Governing Habeas Cases, on the
24 grounds that Kennedy does not have standing to bring this petition and has not sufficiently pled
25 his claim. No hearing is requested. This motion is based on the notice and motion, the
26 supporting memorandum of points and authorities, the petition for writ of habeas corpus, the
27 court records in this action, and other such matters properly before this Court.
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Kennedy is an inmate at the Correctional Training Facility, serving an indeterminate life
4 sentence for second degree murder. (Pet. at 2.) Kennedy alleges that the Board of Parole
5 improperly denied him parole at a parole consideration hearing. He further alleges that his parole
6 consideration hearings have been "sham hearings." (Pet. at 6b.) However, Kennedy does not
7 specify which hearing he challenges, and does not include any exhibits that might identify the
8 hearing at issue. Moreover, he fails to state any specific facts to support his claim. Accordingly,
9 Kennedy has not established a prima facie case habeas relief, and the petition should be
10 dismissed.

11 **ARGUMENT**

12 **KENNEDY DOES NOT ALLEGE SPECIFIC INFORMATION**
13 **SUFFICIENT FOR ENTITLEMENT TO HABEAS RELIEF.**

14 Kennedy does not allege his claims with sufficient specificity to establish standing or to
15 warrant habeas relief. In order to satisfy the standing requirement of Article III of the
16 Constitution, Kennedy "must allege personal injury fairly traceable to the defendant's allegedly
17 unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright*, 468 U.S.
18 737, 751 (1984). Additionally, Kennedy has the burden of proving his constitutional claims.
19 *Davis v. Woodford*, 384 F.3d 628, 638 (9th Cir. 2004), *cert. dismissed*, 545 U.S. 1165 (2005).
20 He must do this by alleging specific facts in support of his claims, as conclusory allegations do
21 not state a basis for habeas relief. *James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994). A petition that
22 fails to state any facts warranting the relief sought is procedurally incorrect and need not be
23 considered by the court. *Soewapadji v. Wixon*, 157 F.2d 289, 290 (9th Cir. 1946); see also
24 Federal Rules Governing § 2254 Cases, Rule 2(c)(2) (requiring petitioner to state the facts
25 supporting each ground).

26 Here, Kennedy claims that the Board unconstitutionally denied him parole; however, he
27 provides neither the date of the challenged parole consideration hearing nor any specific details
28 to support his claim. As such, he fails to satisfy his burden of establishing standing or

1 entitlement to habeas relief. It is impossible for Respondent to respond to Kennedy's allegations
2 when he does not indicate what decision he is challenging or the specific way in which the
3 decision violated his right.

4 Kennedy's reference to state court petitions filed for purposes of exhaustion does not
5 satisfy his burden of identifying the challenged hearing. Respondent should not be required to
6 research Kennedy's numerous state court petitions or his entire parole consideration hearing
7 history in order to respond to his claims. *Cf. Baldwin v. Reese*, 541 U.S. 27, 32 (2004) (a federal
8 habeas petitioner does not fairly present his federal claim if the district court must read beyond
9 the petition or brief to determine that he is in fact alleging a federal claim). Moreover, because
10 Kennedy fails to identify which hearing he is challenging, Respondent cannot confirm that the
11 hearing challenged in the referenced state court proceedings is the same hearing challenged in the
12 current petition. Thus, Respondent is unable to determine whether Kennedy has exhausted his
13 state court remedies, whether the petition is timely, or whether the petition is improper under any
14 other procedural bar.

15 Because he neither identifies which parole consideration hearing he challenges nor
16 provides any other specific facts to support his claim, Kennedy's claim is too conclusory to
17 establish standing or entitlement to habeas relief. The petition should be dismissed accordingly.

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CONCLUSION

Kennedy provides neither the date of the challenged parole consideration hearing nor any specific details to support his claim. As such, his claims are too vague and conclusory to establish standing or entitlement to habeas relief. For this reason, Respondent respectfully requests that the petition be dismissed.

Dated: July 7, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

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Chief Assistant Attorney General

JULIE L. GARLAND
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ANYA M. BINSACCA
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AMBER N. WIPEFLER
Deputy Attorney General

Attorneys for Respondent Warden B. Curry

20119945.wpd
SF2008401620

EXHIBIT

B

ORIGINAL
FILED

MAY 07 2008

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD KENNEDY,

Petitioner,

vs.

BEN CURRY, Warden,

Respondent.

No. C 08-1090 JSW (PR)

ORDER TO SHOW CAUSE

INTRODUCTION

Petitioner, a prisoner of the State of California, currently incarcerated at Correctional Training Facility in Soledad, California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the decision by the California Board of Parole Hearings ("Board") to deny Petitioner parole. Petitioner's application for leave to proceed in forma pauperis is GRANTED.¹ This order directs Respondent to show cause why the petition should not be granted.

BACKGROUND

According to the petition, Petitioner was convicted of second degree murder in Los Angeles County Superior Court and, in 1986, the trial court sentenced him to a term of 15

¹The application to proceed in forma pauperis is attached to the original petition, which was filed in the Central District of California before this case was transferred to this Court.

EXHIBIT

C

Court of Appeal, Second Appellate District, Div. 7 - No. B200866
S155469

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re EDWARD KENNEDY on Habeas Corpus

The petition for review is denied.

SUPREME COURT
FILED

OCT 31 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE
Chief Justice

EXHIBIT

D

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

In re

B199658

(Super. Ct. No. A031686)

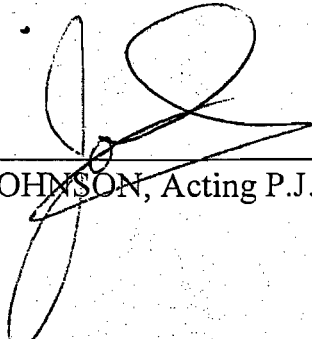
EDWARD KENNEDY

on Habeas Corpus.

ORDER

THE COURT*:

The court has read and considered the petition for writ of habeas corpus filed herein June 11, 2007, wherein petitioner Kennedy challenges the decision made March 16, 2006 by the Board of Parole Hearings finding him unsuitable for parole. Because the record provided by petitioner indicated parole was denied with a subsequent parole consideration hearing to be conducted within one year, this court requested the Attorney General to advise whether a subsequent hearing has been conducted, and if so what was the result. By letter filed June 25, 2007,


*JOHNSON, Acting P.J.,


WOODS, J.,


ZELON, J.

the Attorney General has advised that a subsequent parole consideration hearing was conducted March 1, 2007 and petitioner Kennedy was found unsuitable for parole. The petition is denied, without prejudice to the filing by Kennedy directly in this court of a petition challenging the Board of Parole Hearings' March 1, 2007 decision finding him unsuitable for parole.

EXHIBIT

E

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

COURT OF APPEAL - SECOND DIST.

FILED

JUN 13 2007

In re

EDWARD KENNEDY

on Habeas Corpus.

B199658

(Super. Ct. No. A031686)

JOSEPH A. LANE

Clerk


E. McCLINTOCK

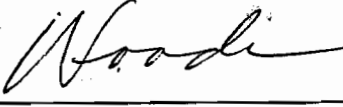
Deputy Clerk

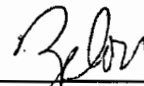
ORDER

THE COURT*:

The court has read and considered the petition for writ of habeas corpus filed herein June 11, 2007, wherein petitioner Kennedy challenges the decision made March 16, 2006 by the Board of Parole Hearings finding him unsuitable for parole. The record provided by petitioner indicates parole was denied with a subsequent parole consideration hearing to be conducted within one year. The Attorney General is requested to inform this court whether a subsequent hearing has been conducted, and if so what was the result.


*PERLUSS, P.J.,


WOODS, J.,


ZELON, J.

EXHIBIT

F

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

COURT OF APPEAL - SECOND DIST.

FILED

AUG - 2 2007

In re

B200866

JOSEPH A. LANE

Clerk

Deputy Clerk

EDWARD KENNEDY

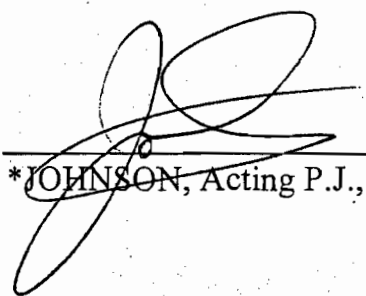
(Super. Ct. No. A031686)

on Habeas Corpus.

ORDER

THE COURT*:

The court has read and considered the petition for writ of habeas corpus filed herein July 31, 2007. The petition is denied.


*JOHNSON, Acting P.J.,


ZELON, J.

EXHIBIT

G

TRI FACILITY OUTGOING CONFIDENTIAL AND LEGAL MAIL

7/11/2008

CDC #	SENDER	TREY	CITY/ST	HOUSING	DATE	TYPE
D30780	KENNEDY	2ND APPELLATE DIST.	LA, CA	FW-304L	2/7/2005	L
D30780	KENNEDY	SUPREME CRT OF CA	LA, CA	FW 304L	3/3/2005	L
D30780	KENNEDY	SUPERIOR CRT LONG BEACH CLE	LONG BEACH, CA	FW304	8/22/2005	L
D30780	KENNEDY	LA CITY ATT OFF	SAN PEDRO CA	F-304	1/17/2006	
D30780	KENNEDY	LONG BEACH SUP CRT	LONG BEACH CA	F-304	1/17/2006	
D30780	KENNEDY	OFF OF THE DIST ATT	LA CA	F-304	1/23/2006	
D30780	KENNEDY	ATT GEN	LA CA	F-304	2/3/2006	L
D30780	KENNEDY	NRTH DIST CRT	SAN FRAN CA	F-304	2/3/2006	L
D30780	KENNEDY	ATT GEN	LA CA	F-304	8/8/2006	L
D30780	KENNEDY	SUP CRT	LONG BEACH CA	F-304	8/8/2006	L
D30780	KENNEDY	U.S. DIST CRT	S.F., CA	FW304L	10/11/2006	L
D30780	KENNEDY	ATRNY GEN	S.F., CA	FW304	10/11/2006	
D30780	KENNEDY	DIST CRT	S.F., CA	FW304	10/13/2006	L
D30780	KENNEDY	US DIST CRT	SAN FRAN CA	F-304	11/8/2006	L
D30780	KENNEDY	ATT GEN	SAN FRAN CA	F-304	11/8/2006	L
D30780	KENNEDY	COURT OF APPEALS	LA, CA	F304	6/8/2007	
D30780	KENNEDY	COURT OF APPEALS	LA, CA	FW-304	7/26/2007	
D30780	KENNEDY	SUPREME COURT	SF, CA	FW-304	8/14/2007	
D30780	KENNEDY	CLRK OF THE CRT	SF, CA	FW304	9/27/2007	
D30780	KENNEDY	SUPREME COURT	SF, CA	FW304	10/18/2007	
D30780	KENNEDY	CLERK OF THE US DIST COURT	LA, CA	F304	12/14/2007	
D30780	KENNEDY	US DIST COURT, CENTRAL DIST OF	LA, CA	FW304	1/11/2008	
D30780	KENNEDY	LONG BEACH SUPERIOR COURT	LONG BEACH, CA	F304	2/4/2008	
D30780	KENNEDY	LA SUPERIOR COURT	LA, CA	FW304	4/2/2008	
D30780	KENNEDY	US DIST COURT	LA, CA	FW304	5/2/2008	

YOUR HONOR, THIS IS A READ-OUT OF MY OUT-GOING
LEGAL MAIL SINCE FEBRUARY 7, 2005.

I HAVE HIGHLIGHTED THE PERTINENT DATES AND
DESTINATIONS THE RESPONDENTS (BY WAY OF THE
NOTICE OF MOTION AND MOTION TO DISMISS ;
MEMORANDUM OF POINTS AND AUTHORITIES, SHOWN
AS EXHIBIT "A") ALLEGED DID NOT OCCUR.

PLEASE TAKE NOTICE

THANK YOU

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY**

(C.C.P. §§ 1013(A), 2015,5)

I, Edward Kennedy, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Edward Kennedy, CDCR #: D#30780
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: F-304
SOLEDAD, CA 93960-0689.

On July 21st, 2008, I served the attached:

Notice of Motion, and Motion in Opposition to respondent's notice of Motion
and Motion to Dismiss;

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102

Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-3664

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 21, 2008.

Edward Kennedy
Edward Kennedy
Declarant